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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,937	07/31/2003	Mark J. Levine	930009-2011	9678
20999	7590	07/10/2008	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151				LONEY, DONALD J
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
07/10/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/631,937	LEVINE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Donald Loney	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 April 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13, 15-17 and 19-23 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-13, 15-17 and 19-23 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-13, 15-17 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tate et al (558926) in view of Kiuchi (4559258) as presented in the last office action mailed January 10, 2008.

Tate discloses that guides 8 on fabric belts can be V-shaped. Tate also discloses the additional layer 7 on the other side of the fabric belt. See figure 3. Tate teaches the additional layer 7 encapsulates at least 85% of the fabric in order to form a good bond (see column 4, lines 40-53). Tate et al does fail to teach the additional layer as encapsulating 50% or less than the fabric and the guide encapsulating at least 50% or more of the fabric.

Kiuchi discloses that when coating are provided on both sides of the fabric in a belt that the each coating encapsulates 50% of the fabric. Refer to coatings 12 in the figures which are both shown to encapsulate half the fabric 11.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to Tate et al to encapsulate at least 50% of the fabric with both of the coatings, as is taught by Kiuchi, in order to securely and positively attach it thereto and the deeper into the fabric the material flows the greater that bond that would be since the material would be able to attach to more of the fabric. This would merely involve adjusting the depth of the coatings as needed to provide a superior bond to the fabric for both coatings.

5. Claims 1-13, 15-17 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reilly et al in view of Kiuchi as presented in the last office action mailed January 10, 2008.

Reilly et al discloses a fabric 18 containing guides 20 formed on both edges of a belt. The guides are V-shaped ribs 31 per claim 1. Another layer is located on the other side of the fabric per claims 18-21. Refer to figures 1, 2 and 2a. The guide is disclosed as molded into the interstices of the fabric (column 3, lines 35-42) in order to securely and positively attach it thereto. The examiner deems the material flowing into the interstices as encapsulating the fabric caliper as recited by the applicant. Reilly et al is silent as to the depth of the encapsulation of both of the coatings forming the guide and layer on the opposite side thereof. The applicant recites at least 50% in claim 1.

Kiuchi discloses that when coating are provided on both sides of the fabric in a belt that the each coating encapsulates 50% of the fabric. Refer to coatings 12 in the figures which are both shown to encapsulate half the fabric 11.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to Reilly et al to encapsulate at least 50% of the fabric with both of the coatings, as is taught by Kiuchi, in order to securely and positively attach it thereto and the deeper into the fabric the material flows the greater that bond that would be since the material would be able to attach to more of the fabric. This would merely involve adjusting the depth of the coatings as needed to provide a superior bond to the fabric for both coatings.

6. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Tate et al or Reilly et al in view of Kiuchi as applied to claims 1-13, 15-17 and 19-21 above, and further in view of GB 2106557 as presented in the last office action mailed January 10, 2008.

The primary reference teaches the invention substantially as recited except for the stuffers used to control the degree of penetration of the coating. See the 35 U.S.C. 103 rejections above.

GB 2106557 discloses it is known to include stuff yarns 21 in a belt fabric in order to control the degree of penetration of a coating into the fabric. See page 3, lines 72-84.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to either Tate et al or Reilly et al to include stuff yarns in the fabric thereof, as is taught to be known by GB 2106557, in order to control the degree of penetration of the coating motivated by the fact GB 2106557 discloses this is known in the art of belt coating.

#### ***Response to Arguments***

7. Applicant's arguments filed April 10, 2008 have been fully considered but they are not persuasive. The applicant argues that none of the references teach a fabric with a surface coating that encapsulates 50% or less of the fabric caliper and a guide formed of guide material encapsulating 50% or more of the fabric caliper. However, as can be seen by figure 2 in Kiuchi that the coatings on both sides of a belt are known to encapsulate approximately 50% of the fabric. Example 2 also teaches that the coating on each side of the fabric reaches approximately the inside of the fabric (i.e. approximately 50% thereof). Additionally, the reference to Curry discloses that stuffers are known to be used in a belt fabric in order to control the degree of penetration of the coating, therefore, it is merely a matter of degree of how much one wants the coatings

to penetrate the fabric. The applicant argues that the molding into the interstices of the fabric in Reilly et al is between the polyurethane and the fabric and not between the guide and the fabric. However, the polyurethane and guide the applicant is referring to are one integral part (column 3, lines 30 and 31), therefore, the guide does penetrate the fabric.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DJL:D.Loney  
07/07/08

/Donald J. Loney/  
Primary Examiner  
Art Unit 1794